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AN EXPOSÉ
OF THE
CONDUCT
OF
JOSEPH H. BRADLEY
OF WASHINGTON, D.C.
Counsellor "EMPLOYED by the
IMPERIAL RUSSIAN LEGATION,"
TOWARDS
MAJOR G. TOCHMAN,
OF NEW YORK,
Counsellor RETAINED by the
NEXT OF KIN AND HEIRS AT LAW
OF
GEN. THADEUS KOSCIUSKO.

DECEMBER, 1847.



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INTRODUCTION.

TO THE PUBLIC IN GENERAL, AND
TO MY FRIENDS IN PARTICULAR.

HUMAN transactions are sometimes subject to unfortunate incidents, which no prudence can prevent; when such transpire, a truthful exposition of the facts, and submission of them to the impartial sense of public opinion, seem—for the injured—to be the only attainable satisfaction.

Guided by this understanding, I deem it my right as well as my duty—to make known to my friends and the public in general, the particulars of a controversy, which has caused me great pain and unhappiness.

Mr. de Bodisco, minister from Russia, in his anxiety to take vengeance upon me for political offences against that country, has been making every effort to take out of my hands, a professional matter, which my former countrymen, the next of kin and heirs at law of Gen. Thadeus Kosciusko, entrusted to my care as a member of the bar of this country.

To effect this *political* vengeance—or in other words, to visit upon me, by this indirect way, the penal laws of his master—the autocrat; Mr. de Bodisco induced JOSEPH H. BRADLEY and another member of the Washington Bar (whom I had associated with myself as Counsel of the next of kin and heirs at law of Gen. Kosciusko) to consent to accept a power of attorney—direct from my clients, which he (de Bodisco) *undertook to procure and obtain for them, through the coercive measures of his tyrannical government at St. Petersburg.*

When I ascertained, that the proposition of Mr. de Bodisco was accepted by my then associate, Joseph H. Bradley, and by the other individual who was associated with us; and that the

said Mr. de Bodisco, had actually forwarded to St. Petersburg, a draught of a power of attorney, prepared in their names, to obtain the *signatures* of my clients—the heirs at law of Gen. Kosciusko; I immediately took such preventive measures as I deemed legitimate and proper, to defeat their design (which was a conspiracy) to injure me.

After this, the association between Joseph H. Bradley, the other individual and myself, was dissolved—and thenceforward those two individuals assumed to claim the absolute management of the business of my clients; under pretended authority from the “IMPERIAL RUSSIAN LEGATION”—or in other words: from Mr. de Bodisco, *minister* from Russia.

My determined resistance to this absurd, presumptuous, and unwarrantable interference—which continues up to this day—aroused Joseph H. Bradley, who not being able to meet it by any legal and honorable opposition, adopted a false and violent course by attacking my good name and professional integrity—by means which no *gentleman* would have done.

Charitably attributing his behaviour, more to his susceptibility to passion than to a want of honorable feeling (such as should govern a gentleman,) I gave him a fair opportunity of doing justice to himself, and rendering proper redress to me. The enclosed communication will show—how it has been met, and disposed of by him.

I submit, then, respectfully the merits of the case to the scrutiny of the public as well as of my friends; which I do—by publishing the correspondence heretofore referred to: it being the only means, consistent with the rules of honor—by which I can defend my good name and character against the opprobrious *epithets* and *menaces*, which Mr. Bradley *thought he could use towards me with impunity*.

An attempt having been made, to question the identity of my person, I add at the close, two depositions—taken, one from Mr. I. T. Chutkowski, a cousin of the next of kin of Gen. Kosciusko,—the other from Mr. John L. O’Sullivan, late member of the Legislature of New York, and former editor of the Democratic Review,—which conclusively show, the character of these malicious insinuations.

GASPARD TOCHMAN.

December 10, 1847.

CORRESPONDENCE.

No. 1.

WASHINGTON, D. C., *November 6, 1847.*

MY DEAR SIR :

I have been looking for you here and in Baltimore, for the last three days, and have just learned that you are in Philadelphia. I beg leave then to direct there, this letter. You know my reasons of postponing my right to obtain satisfaction from Bradley, for the insult he offered me last winter—when you were at Washington. It can be postponed no longer. On Wednesday last that man, in open Court, during the argument of a case permitted himself to make some disparaging imputations in regard to me, which of course I at once refuted. Not being able to meet my refutation by any argument, he adopted a plan unbecoming a member of the bar. In the presence of the judges, members of the bar and other citizens, he made two steps towards me in a menacing posture, saying, “I WILL STRIKE YOU,” and on being answered, “TRY”—(*when the Deputy Marshall placed himself between him and myself,*) he called me “scoundrel—coward.”

You are a gentleman of honor—and you know that I sacrificed all worldly goods on the altar of my native land. I saved and brought to this country of my adoption, only my good name, my honor, and industry. Good name and honor, are dearer to me than life itself—and they are attacked here, designedly, to subserve a foreign policy: Bradley being, as I told you last winter, employed by Bodisco, minister from Russia, to wrest

out of my hands the management of a business which the heirs at law of Gen. Thadeus Kosciusko, entrusted to my care ; further particulars of these efforts of Bodisco, you will learn from the enclosed affidavit, which I made at Baltimore, and published immediately after Bradley insulted me. (see exhibit marked A.)

I hope, my dear sir, that you will not refuse me your friendly aid, to obtain from Bradley such satisfaction as is due to me. My unchangeable resolution, is, to meet Bradley—if he does not prove himself the “*coward*” and “*dirty scoundrel*”—which he thought he could have applied to me with impunity. I place my honor in your hands with full and entire confidence, and beg you to come to Baltimore as soon as possible, and take this matter into your hands. Please to stop at Barnum’s. Write me a note when you will start, that I may meet you there on your arrival. I beg you do not delay for a moment your coming to Baltimore, and say nothing about it to any body until all is over. Accept the assurance of the highest consideration—with which I have the honor to be,

Your most ob’t servant,

G. TOCHMAN.

CAPT. JAMES W. SCHAUMBURG,
Philadelphia.

Exhibit A

Affidavit—Be it remembered, that on this 3d day of Nov. 1847, before me the subscriber, a Justice of the Peace of the State of Maryland, in and for the City of Baltimore, personally appeared Major Gaspard Tochman, who after being duly sworn and according to law says: that he is a native of Poland,—took an active part as Major in the army during the revolutionary war against Russia in 1830—and for having done so, was exiled from Poland in 1831, and had his property confiscated by the grasping power of the Autocrat in 1835. In 1832 this affiant came, as exile to France, where he was elected by his fellow-countrymen, Vice-President of the Polish Council at Avignon, and held the office of that station until 1834, when he went to Paris. About the end of 1836 he left France for England, and in 1837 he came to this country and made himself known to the public of these United States, as a lecturer on the policy of Russia and the wrongs and sufferings of his native land, Poland. In 1843 he became a

naturalized citizen of these United States, and in 1845 he was admitted to practice law in various Courts of the United States and in the city and state of New York, where he resides. This affiant further says: that soon after he commenced to practice law, to wit: about the end of the year 1845, the next of kin of General Thadeus Kosciusko of Estko branch, who all reside in Poland and Russia, retained him as attorney and counsel to recover their moiety of the property which their kinsman said Gen. Kosciusko left in this country, and which they claimed and litigated without any success since the year 1821 or 1823. And this affiant further says, that on his coming to Washington City, to take charge of the business of his clients said Estkos, he found out that the other branch of the next of kin of said Kosciusko, the Zolkowski branch, entitled to the second moiety of said property, had no attorney nor counsel in this country—he, this affiant therefore, as their former countryman undertook to take charge, and did take charge of their right to, and interest in the estate, and notified them of it by a letter addressed to their relative and correspondent, a certain Mr. Adam Bychowiec, living in Russia, in the government of Grodono, who is an assignee or purchaser of some portions of the moiety of the estate casting upon said Zolkowskis branch. This affiant further says, that although he has an express, and he believes, an irrevocable power of attorney from the Estkos branch, and although the Zolkowskis branch for whom this affiant undertook to act voluntarily as aforesaid, have not revoked him as their attorney and counsel, as the law in such cases provides for and requires. Yet a certain Mr. de Bodisco, minister from Russia, in his anxiety to take vengeance upon this affiant for his political offences against Russia, undertook to interfere with this affiant's professional pursuits, and has attempted to take out of his hands the business aforesaid of the next of kin of said Thadeus Kosciusko. The affiant further says, that to this end said Mr. de Bodisco, minister from Russia, some time in February, 1846, forwarded to St. Petersburg in Russia, a power of attorney prepared in the name of two lawyers of the Washington bar, (with whom this affiant had associated himself as counsel of the next of kin of said Kosciusko to have their legal aid and assistance) requesting the government of Russia to require the clients of this affiant, said next of kin of Thadeus Kosciusko, to sign said power of attorney in order to supersede that of this affiant.* And this affiant further says, that he, said Mr. de Bodisco, minister from Russia, having failed in obtaining the signatures of the next of kin of said Thadeus Kosciusko to the power of attorney intended to supersede that of this affiant as aforesaid, undertook to put at naught this affiant's right and power of attorney, by enlisting the two lawyers whom this affiant associated with himself as aforesaid, to contest the power of attorney of this affiant, under pretended authority from him said Mr. de Bodisco, minister from Russia, and in the meantime, he, said Bodisco, renewed his effort

* The two lawyers referred to are: Joseph H. Bradley and P. R. Fendall.

to obtain from the next of kin of said Kosciusko a power of attorney aforesaid, in behalf of the two lawyers employed by himself to accomplish his political vengeance aforesaid. This affiant further says, that in this stage of this affair came to the City of Washington from Russia, Ladislaus Wankowski, late Captain in the Russian army, who is a grand-grandson of one of the sisters of Gen. Kosciusko, and is entitled in his own right to one twenty-eighth part of the estate of said Kosciusko, casting upon him through his father, and to one fifty-sixth part of said estate which he takes as legacy from his uncle Josephus Zolkowski. And to whom said Adam Bychowiec, and a certain Mr. Szyrma, both purchasers of certain small portions of the estate, gave a power of attorney to recover their said portions: None of the actual heirs or next of kin of said Kosciusko, not even own brother of said Captain Wankowicz, joined said Bychowiec and Szyrma in giving said power of attorney to said Ladislaus Wankowicz, Captain in the Russian army. This affiant further says, that the law of Russia forbids the Russian subjects to have any interview with the Polish political exiles, without the permission of that government, even abroad in foreign countries:—he, this affiant does not undertake to say whether said Captain Wankowicz obtained from his government leave to see this affiant as attorney and counsel, but he has reason to believe, and does really believe, that said Capt. Wankowicz, on his coming to the City of Washington, some time during the last week, made such an application to said Mr. de Bodisco, minister from Russia, who at first granted said Captain Wankowicz the permission of having interviews with this affiant, and two days after revoked it, and forbade him to see this affiant any more; which order, of course Capt. Wankowicz must obey, for otherwise he might be sent to Siberia on his return home. This affiant further says, that during the interview, which said Capt. Wankowicz had with this affiant in virtue of the aforesaid permission from Mr. de Bodisco, minister from Russia, he said affiant, learned from said Capt. Wankowicz that, said Mr. de Bodisco ordered him to employ as his counsel, those two lawyers for whom he failed to obtain the power of attorney—from other next of kin of said Kosciusko, intended to supersede the power of attorney of this affiant as aforesaid. And this affiant further says, that he advised said Capt. Wankowicz to comply with said order of said Bodisco, having reason to believe and really believing that, should said Capt. Wankowicz refuse to employ these two lawyers, as said Bodisco, minister from Russia directed him, he, said Capt. Wankowicz, might be severely punished on his return to Russia. This affiant further says, that on the occasion of said interview, Capt. Wankowicz communicated to this affiant a letter written in the Polish language, dated Paris, January, 1847, and signed "Terlecki," addressed to a certain Mr. Szyrma, who has a certain interest in the estate of Kosciusko as a legatee or purchaser of a certain small portion,—in which letter said Terlecki informs said Szyrma, that he, said Terlecki, is in communication

with some lawyers in the United States; that he proposes to sail from France for the United States in a very short time; and thereupon he, said Terlecki, requests said Szyrma and the next of kin of Thadeus Kosciusko, to execute to him, said Terlecki, a power of attorney to recover the property which Gen. Kosciusko left in this country; and for his services he asks said Szyrma and the next of kin of said Kosciusko, to assign to him, said Terlecki, one half of the estate. This affiant further says, that he has reason to believe and does really believe that, the said letter has been made use of to connect the affiant with said Terlecki, in the proposition which said Terlecki, made to the heirs or next of kin of said Kosciusko. This affiant therefore expressly and solemnly says and declares, that he does not know said Terlecki, never saw him, had no communication with him, neither directly nor indirectly, in this nor in any other business whatever; that therefore the charge of some connection of this affiant with said Terlecki is a cabal; an attempt to impeach the good name of this affiant. This affiant further says, that the law being too slow to protect his right and good name, against these political machinations of said Bodisco, minister from Russia, he, said affiant makes this affidavit under the solemnity of his oath, for the purpose of setting forth before his fellow-citizens of these United States, the actual position of this affair; which he does in the exercise of his right to use preventive measures in self-defence, to avert the injury to which the unrelenting persecution aforesaid, could expose him—before he can legally be protected by the Congress of these United States.

GASPARD TOCHMAN.

Sworn before }
WILLIAM WARFIELD. }

No. 2.

BALTIMORE, *November 13, 1847.*

Saturday, 10 A. M.

DEAR SIR:

My much esteemed friend, Major Tochman, feeling himself exceedingly offended by your treatment of him, whilst in the performance of his professional obligations, in presence of the honorable the United States Circuit Court Judges, sitting in Washington city, the members of the bar, officers, and citizens there in attendance; that, without sufficient provocation,

if any at all, on his part, you applied to him the epithet "*scoundrel!*" and menaced him in a violent manner. Such is the principal indignity offered to him, and which he considers his character, as a gentleman, requires of him to call upon you, formally, to retract and apologize for—and to do this in as public a manner as the insult was offered. Major Tochman feels that this is due to him, and as he avows that, he has never intentionally provoked you to resentment, or in any manner so acted towards you, as to have prompted you to have assailed him with such violence—he expects that upon reflection you will have no objection to comply with his demand as above.

I feel confident in saying that, in thus calling upon you to repair the great wrong you have done my friend, he harbors no enmity towards you; and as he reasons considerately, in which I concur, that he believes your violence towards him arose more from a too great susceptibility to passion, than from any cause of offence on his part. Major Tochman must, notwithstanding, protect and defend his honor from opprobrium. His tacit submission to be so insulted would render him, not only unworthy of the countenance of society, but recreant to his honor as a man, and his professional fame.

I cannot but believe, and very much hope, that you will promptly accord to Major Tochman what he asks.

Be so good as to answer this communication as soon as possible.

I remain, with high consideration,

Your obedient servant,

JAS. W. SCHAUMBURG,

JOS. H. BRADLEY, Esq.

Barnum's Hotel.

Washington City.

No. 3.

WASHINGTON, 15th Nov. 1847.

JAS. W. SCHAUMBURG, Esq.

SIR,—Your very courteous letter of Saturday last, which I received to-day, requires an immediate and full reply.

The individual who has complained to you was introduced to me some two years ago, and from that time he received nothing

at my hands but the utmost hospitality and kindness, until January last. He then wrote to Mr. Bodisco a letter most injurious to me, and filled with a tissue of falsehoods, which have since been fully demonstrated in open Court. I immediately dropped all intercourse with him, and so informed him in a letter, which I presume he has with him. Shortly after this, in the Orphan's Court, he persisted in addressing himself to me till after the Court had adjourned, when he proceeded so far, in an offensive manner that I was obliged to tell him he was a liar, a blackguard, a scoundrel, and I believed a coward. This was, I believe, in *January last*, and in the presence of others.

I had no further interview with him and heard nothing from him, until some time in *May* or *June* last, when, in the Circuit Court, as I concluded an argument he arose and said what I considered grossly insulting to me. I then told him, unless the Court took notice of it, and he apologized, I would horsewhip him before night, and he might prepare himself for it. The Court did notice it, and he explained, retracted and apologized to me. Thenceforth I resolved to disregard him; but he kept up a sort of running fire upon me by means of publications, made anonymously in certain newspapers, which at the proper time I shall probably trace out, and fully press upon him. Failing entirely by these means to provoke me to any further notice of him, on the trial of a cause in the Circuit Court *more than ten days ago*, he repeatedly interrupted the course of it, in a manner intended to be offensive to me. This I entirely disregarded, until at last when I was in the midst of my argument, and utterly forgetful of him, he broke in upon me with a gross charge, which was so sudden, so unlooked for, so entirely unprovoked, that I was for a moment thrown off my guard, and rushed upon him to strike him. Fortunately, my advance was embarrassed by a number of chairs, and before I could reach him he had sunk into a chair. I then did say to him, "you dirty scoundrel and coward, I will kick you out of court if you do not behave yourself." He immediately appealed to the Court for protection; they interfered, reprimanded him for his conduct, and rebuked me for my violence. I immediately, and most humbly begged pardon of the Court, for the indignity I had offered them, and in self-abasement and in view of my own self-esteem, *pledged my honor that, so far as I could possibly prevent it, no further act*

or language on his part, should ever provoke me to further notice of him.

These facts are all notorious among the members of the profession in this city.

If I have done him the slightest injustice, there is no one living who would be more ready to redress it than I am. But you must perceive from the foregoing statement that I have hitherto invariably acted on the defensive, and whatever I have said has been in repelling his attacks.

I regret to have been obliged to write this statement of a person whom you have designated as your friend. I might, a year ago, have applied the same epithet to him. He alone is responsible for what has occurred.

I need not add, to satisfy you, that towards yourself personally, whose courtesy in writing I have already acknowledged, that nothing I have said can be construed into the slightest personal disrespect.

I am, sir,

Your very obliged serv't,

JOS. H. BRADLEY.

No. 4.

BALTIMORE, MD. *November 17, 1847.*

MY DEAR CAPTAIN:

I expect that you do not wonder, after reading Bradley's letter which I sent you last night, that I could not "keep cool" yesterday, and addressed three messages to you by telegraph, requesting you to come to Baltimore immediately. Had that insolent letter came to my hands, before I placed my honor under your care to obtain redress from that man, the distance which separates me now from him would not have cooled me, and I know not what might have become, by this time, of him and myself. Respect for you only, my dear Captain, kept me within the limits which permit me to address you this morning from Baltimore. I received your yesterday's letter at half past eleven o'clock in the night, and will keep "cool and quiet" until you come here—but I beg you do not leave me too long on the torture of *coolness and quiet*. I am indeed a quiet man, and have never been too hot; but I have never been tried in the manner that I am now: never before, my good name and honor were assaulted in this way, by any mad-man.

I am unwilling to touch the dirty letter of Bradley, but some

exposition I deem necessary. When I ascertained that Bradley and Fendall accepted Bodisco's proposition to get for them a power of attorney, direct from my clients the heirs of Gen. Kosciusko, I wrote to Bodisco the letters of which, two copies I forwarded to you last night. (See exhibits B, C.) The facts stated in those letters, I aver to be true—and the certificate of the public notary on the copy of the first letter, and the tone or tenor of that letter itself, prove, that this communication with Bodisco was opened as a preventive measure to defeat the unfair and illegal intention of my antagonists. Bodisco, as I expected he would do, communicated those letters to Bradley and Fendall, after which they wrote me the letter marked D. The exhibit marked E is a copy of my answer to them. And the letter marked F, is their reply to it. After this, I filed in the Orphan's Court, my power of attorney, and requested the Court to take notice that, Bradley and Fendall are no longer my associates—and of course have no right to interfere in the business of my clients, the heirs of Gen. Kosciusko. Bradley and Fendall, on their part, filed in that Court a petition contesting my power of attorney, and assuming to claim the absolute control of the business of the heirs—and in support of this their claim, they filed that *famous* memorial of Bodisco addressed to the Judge of the Orphan's Court, which is inserted in the slip from a newspaper, which I sent you last night. (Exhibit G.) The question in whom exists the actual power of attorney of the heirs, was argued for two or three days. The last day, when the Judge left the Court, I said—I am very sorry to have such an unexpected and unpleasant difficulty with the gentlemen whom I associated with myself as counsel of the heirs. Bradley smiled with irony—to impress those who were present that there was some wrong on my part in this affair. This of course compelled me to say—that it was not for my own sake that I was sorry—as I have no reason to reproach myself in the premises. At this Bradley began to insult me. As far as I recollect, he did not use the words which he has inserted in his letter to you:—the words by which he insulted me, then, were “scoundrel—rascal,” which were returned to him instantly, and I left the Court. This happened on the very day when I told you what occurred between Bradley and myself, and requested your friendly assistance in the premises. Having returned Bradley's insult in his own words, (which I considered as a partial satisfaction done myself) and for other reasons, which I explained to you at the moment when I communicated to you this affair, I did not press this matter further, to obtain full satisfaction from Bradley; you know, it remained postponed until another time:—and this time has now come.

The history of the affair, which happened in “May or June,”

has been also misrepresented by Bradley in his letter to you. It refers to a case of the heirs of *Kosciusko v. Armstrong*: when the association between Bradley, Fendall and myself was broken, I moved the Court to strike out their names from the docket in that case, and in others; they being no longer my associates, and of course having no right to stand on the docket upon which they entered as my associates, and under my power of attorney. The Court overruled my motion—and decided that each of us should be heard until the heirs themselves settle—which of us has the better right to appear for them:—the Court said they would not look behind the docket. Soon after that, Armstrong's case was argued. Bradley spoke after me—and when he set down, I protested against a portion of his argument which I considered to be prejudicial to the interest of my clients. Bradley took it for an insult, and called upon the Court to protect him—or, he said—"I will take justice into my own hands!" The Court reprimanded him for the last words—but at the same time suspended the argument in the case, and proceeded against me. They wrote a decision reprimanding me for protesting against Bradley's argument, and commanding me to retract it—and apologize to Bradley. I refused to comply with that decision of the Court, and told the Court that they had no right to trample upon my rights and feelings;—that, being the only attorney with authority from the heirs, I am the only judge as to how their interests should be defended—and for this I am responsible to them and nobody else;—that my protest against Bradley's argument was merely the exercise of my right to defend the rights of my clients; that if the Court infers any intended offence to Bradley from my protest—so far as the Court infers such offence—I disavow it out of respect to the Court—but with an express declaration on my part, that my protest against Bradley's argument was made in the exercise of my duty towards my clients—and to protect myself from responsibility towards them hereafter: for what may be done by Bradley, I alone am responsible to them, he having been employed by myself without their consent or knowledge. This sort of apologetical explanation, the Court refused to accept; two or three decisions were written with some modifications, to force me to apologize to Bradley—"unconditionally"—to each of them I refused to comply. One of the judges said that, I should respect not only the Court, but "Mr. Bradley too"—to which I answered, "I do respect him as much as he does me, and no more." This answer caused a general laughter. The Court then, requested me to reduce to writing what apology I would offer—which I did—stating the whole case in substance, exactly as I have explained here. The Court refused again to accept my apologetical explanation, and said that they would take the matter under advise-

ment. The enclosed extract of a report from the Baltimore Sun, imperfect as it is, will show to you that in the way which I stated here, the matter in the premises was concluded.* And the Court has it to this day under advisement. So much, then, for the veracity of the part of Bradley's statement referring to this occurrence, and telling you that I "retracted, (meaning my protest) and apologized to him."

The history of Bradley's last assault upon me in the Circuit Court, is also misrepresented by him. And to make you acquainted with the actual character of this last occurrence, I am obliged to go behind what I stated in my letter of the 6th inst. When I accepted the power of attorney from the heirs of Gen. Kosciusko of Estko branch, I found out that another branch, (the Zolkowski branch) had no attorney, nor counsel, nor agent in this country. I undertook, therefore, to defend their interest, which I did as their former countryman, and notified them to that effect. After that, I associated myself with Bradley and Fendall, to have their legal assistance. The articles of this association were reduced to writing on the 29th day of November, 1845. It was expressly understood between Bradley, Fendall and myself, when the agreement was made, that we associated under my authority from the Estko branch, and that with the Zolkowski branch I had to open a communication to obtain the authority. We then filed a Bill of Review, praying the Court to review certain decrees, which Armstrong obtained against the estate, previous to my taking charge of the business of the heirs. The Bill of Review was drawn by Bradley in his own hand-writing, and he put to it the names of Fendall and myself; which he did under authority from us. After the Bill was filed, I perceived that some material facts were omitted. I called, immediately, the attention of Bradley and Fendall to these omissions, and proposed an amendment of the Bill. To

* From the Baltimore Sun of the 3d of June, 1847.

WASHINGTON, June 2d, 1847.

Circuit Court.—Etsko and others v. Armstrong and Bomford, administrators of Kosciusko. Mr. Bradley resumed his argument this morning, in behalf of the complainants, and against the demurrer put into the bill of review. When he had concluded his address, Mr. Tochman arose and protested against a portion of the argument of Mr. B. as *tending to favor the other party*. Mr. B. resented this language, and demanded the protection of the court.

After various explanations, and a disavowal on the part of Mr. Tochman, of *any intention* of injuring the feelings of Mr. Bradley, the court drew up a form of an apology, which they required Mr. T. to sign. After perusing it, he suggested an amendment, and the court then decided, *they would hold the matter under advisement until to-morrow morning*. During this rather novel episode to this otherwise dry, *antique* and intricate case, somewhat of an excitement prevailed amongst the members of the bar, and in the court room generally. However things soon assumed their usual aspect, and the argument in the cause was continued by Mr. Fendall for complainants. Mr. Cox spoke in reply until the adjournment of the court.

this they both objected, insisting that the Bill was sufficient. Some time after, Armstrong demurred to our Bill of Review. It was on the occasion when that demurrer was argued, that aroused that difficulty between Bradley and myself, which I sketched in the preceding part of this letter. The demurrer was ruled good, and our Bill of Review was dismissed, on the very ground of the omission of the facts to which I called the attention of my then associates. In this stage of the case, came to this country—a captain in the Russian army—Ladislaus Wankowicz, who is one of the next of kin of the Zolkowski branch, for which branch I undertook to act as their attorney, and notified them of it. Whether he came here of his own free will, or in consequence of the order of his government, is altogether immaterial; I only call your attention to the fact that Bodisco directed him to employ Bradley and Fendall as his counsel—which he did, as you know, from my affidavit. (See exhibit A, pages 6, 7.)

This occasion Bradley seized to make a new assault upon me. He obtained an affidavit from Capt. Wankowicz, that he never employed any counsel to defend his interest previous to his coming to this country—(which is true, for he is one of the Zolkowski branch, for whom I undertook to act as attorney, as heretofore explained.) But Bradley, either to smother his mistake in the Bill of Review drawn by him—as I stated above, or from some other motives unknown to me, instead of amending said Bill of Review, prepared, upon the ground of that affidavit, in the name of Capt. Wankowicz, a bill in the nature of a Bill of Review, to have the Armstrong's case reheard—and moved the Court for leave to file it, and during his argument, made insinuations that I had *fraudulently entered on the original Bill of Review, my name as attorney of said Capt. Wankowicz, and fraudulently induced him and Mr. Fendall, to enter their names for him, as my associates.* Of course, I interrupted him immediately, and refuted the false imputation. To make you perfectly familiar with the character of this false imputation, I enclose here a copy of the agreement heretofore referred to, which I made with Bradley and Fendall, and call your attention, *specially*, to the underlined part of it. (See exhibit H, *part* printed in italics.) As I stated in my letter of the 6th inst., Bradley could not meet my refutation by any argument, and assaulted me in the manner which I have described in that letter. His saying that the “chairs” prevented *him* from striking me in Court! is not true;—my answer “*try*,” caused him to change his purpose, and he was glad to see the Deputy Marshall place himself between him and myself—which interposition between us, gave the *hero*! the boldness to call me “*scoundrel and coward*.” The proceedings of the Court on

that occasion have all been misrepresented in Bradley's letter to you. It is true that I called upon the Court to protect me—but one of the judges said nothing—another turned round his face and laughed—and the third scarcely uttered the words, "it is very improper, Mr. Bradley, very improper indeed." After which Bradley made a sort of *mock* apology to the Court. And when upon that I called upon the Court to take notice of what Bradley had done and said—Judge Morsell violently answered, "Mr. Tochman, if you say a word more, I will order the Deputy Marshall to take you out of the Court." Seeing that I was entirely without protection, and that the Court countenanced and suffered the insult which Bradley offered both to the Court and to myself—I of course followed the direction of prudence—and left the Court. It was my intention to separate the conduct of the Court in the premises from that of Bradley, and I have not fully stated it in my former letters to you; but it seems to me, that Bradley's answer to your letter, authorizes me to disclose to you, even the conduct of the Court—and I do so out of regard to my own self-respect.

This whole transaction shows how much my feelings must have been wrought upon. I beg you then, my dear Captain, to come back here; from here, only, you can act effectively.

Bradley seems to attempt to reflect upon my conduct, that I did not apply to you until after *ten days* had elapsed from the time of his last assault, please then to take notice that I wrote to you on the 6th inst. praying you to take this matter into your hands.

I am very respectfully, and with the
highest consideration, your most
obedient friend and servant,
G. TOCHMAN.

CAPT. JAMES W. SCHAUMBURG,
Philadelphia, Pa.

No. 5.

PHILADELPHIA, *November 17th, 1847.*

MY DEAR MAJOR :

I have received your letter, with that of Mr. Bradley. I had expected to receive from him either a gentlemanly submission, or something that would make him still more in the wrong; as unacceptable as his letter is to us, still, I do not think proper to precipitate matters with him—a little time can do no harm, and may work a happy result. You must not

think, because I delay, that I do not take the most lively interest in your behalf—as a friend and adviser in such serious matters; it is better to be cool and considerate. I am bound to make peace, honorable to you, and satisfactory to the adverse party also, if it can be done. I am opposed to headlong and violent action—and I shall see that all respect for ourselves be observed, and when every fair inducement is disregarded, we can take *the alternative* which must be uncompromising and determined. We shall then see who is the “coward,” the “dirty scoundrel,” &c. I must press upon you to be at rest, and calm yourself. I shall obtain for you all the satisfaction you can desire. But if Mr. Bradley obstinately opposes reconciliation, we then can demand personal satisfaction; if he shrinks from this, then you can resort to publicity of his course of conduct. This is my advice, and you must be governed by it, if I am to act further in the matter. I wish to have three or four days more to consider; I have taken such steps as will, I hope, by that time, bring matters to a close. I have a perfect understanding of the whole difficulty, and Mr. Bradley’s letter is of no advantage to him, but will show greatly to his prejudice should it become necessary to publish it, more especially so when contrasted with my letter to him, to which it is a reply.

I remain your friend,

JAS. W. SCHAUMBURG.

MAJOR GASPARD TOCHMAN,
Now in Baltimore.

No. 6.

PHILADELPHIA, November 19, 1847.

DEAR SIR:

I received your acknowledgment of the receipt of my communication, and for reasons, not necessary to mention, I have delayed responding to your letter; which, I must not refrain from saying, is not the point proposed for your consideration—as necessary either to a happy termination or reconciliation, at least, in so far as my friend, Major Tochman, is concerned. You could hardly suppose me to have addressed you on the subject, without first understanding thoroughly the merits of the case, the *pros et cons*, and of the position in which Major Tochman and yourself stand in relation to each other. I did not call upon you for an explanation, or, as you say it, “a full statement of what you remembered, from first to last, as having provoked or aggravated hostile feelings, reproaches, menaces, and *unworthy* epithets;” therefore, understanding the

difficulty between yourself and Major Tochman, I could not have asked for an explanation or a *statement* from you, and, as presented by you, I consider as *superogatory*. You acquit yourself of any disrespect to myself, in presenting the conduct of my friend towards you, and your denunciation of him. I could not of course suppose that you would treat me with discourtesy; yet, I must say, that it would have been considerably less objectionable, had you confined yourself to the question; that is, that you would say promptly, whether you would or would not retract and apologize in as public a manner as the highly insulting expressions and unmerited affronts were offered. I regard with too much respect the high toned honor and unimpeachable character of my friend, and in his very act in the difficulty with you, to hesitate for a moment to give him my entire approval. I sincerely desire that you should not continue to stand in a position so unbecoming a gentleman of your high character, as a leading member of the bar and of society. I make no appeal to you, other than to your sense of justice, and as becomes the dignity of an honorable gentleman—submitting to nothing that was wrong, and demanding nothing but what was right. Rely upon it, Mr. Bradley, you will forfeit much, by not doing as I—I will not say advise you to, for it is not my right to do so—*suggested*.

You will not misapprehend me; I treat with gentlemen, always without suspicion and upon honor, I scorn to take any advantage.

I close this communication with a hope, that you will not hesitate to accord what has been presented for your consideration. I leave here for Baltimore, and await your answer there.

I remain, with high respect,

Your obedient servant,

JAS. W. SCHAUMBURG.

JOS. H. BRADLEY, ESQ.

Washington City, D. C.

No. 7.

WASHINGTON, 22d Nov. 1847.

SIR:

At the time I received your first letter, and from that time to this moment, I have been incessantly engaged in Court or in the preparation of causes, and I was and am now obliged to write hurriedly. Your first letter was received and answered

immediately, in the same spirit in which it was written, and in which I now write, and I hoped I had been sufficiently explicit.

The cause of complaint, as I understand it, is certain opprobrious epithets used by me in the course of the present term of the Circuit Court. I thought I had stated with abundant precision that they were in reply to, and immediately provoked by a sudden and gross charge. That was a charge of fraud openly, and without provocation alleged against me in open Court by him. Has it occurred to you that the cause which led to the use of the epithets should first voluntarily be taken away before you can reasonably expect me to say a word about them. Let your friend do what is right in the matter, and he shall find me quite as ready to redress, as he seems to think me ready to inflict injury.

Or, am I to understand that you think he was right to charge fraud on me, and then, that I should voluntarily withdraw the epithets provoked by that charge?

I am, sir, your most ob't serv't,

JOS. H. BRADLEY.

JAS. W. SCHAUMBURG, Esq.

Baltimore.

No. 8.

BALTIMORE, *November 25, 1847.*

SIR :

I am in the receipt of yours of the 22d inst. in answer to mine of the 19th. You tell me your engagement in Court, &c. has taken up all your time—I am very sorry that you are so much employed, as not to allow you half an hour in two days, to write a few lines. “The cause of complaint, as I understand it, is, certain opprobrious epithets [and menaces] used by me in the course of the present term of the Circuit Court,”—exactly so. And you further say, “I thought I had stated with abundant precision, that they were in reply to and immediately provoked by a sudden and gross charge. *That was a charge of fraud,* (I underscore your words, and will do so as I progress) openly and without provocation *alleged against me in open Court* by him”—Major Tochman. Now sir, let me quote from your letter of explanation, or “statement,” in which you think you “had with abundant precision” represented to my understanding. As you are a lawyer, I shall be brief and to the point; first informing you, that I cannot recognize a change of issue, or as lawyers say, look behind the record. What was the offence of Major Tochman towards you, to call forth the epithets, “dirty scoun-

drel and coward," and that you would "kick him out of Court, &c?" I quote your own words, "On the trial of a case in the Circuit Court, * * he (Major Tochman) repeatedly *interrupted* the course of it, in a manner intended to be offensive to me. *This I entirely disregarded*, until at last, when I was in the midst of my argument and *utterly forgetful of him*, he broke in upon me entirely unprovoked, that I was for a moment thrown off my guard and *rushed upon him to strike him*. Fortunately my advance was embarrassed by a number of chairs, &c." "I then did say to him—'You dirty scoundrel and coward, I will kick you out of Court if you do not behave yourself.' He immediately applied to the Court, (as well as he might!) for protection, they reprimanded him for his conduct, and *rebuked me for my violence!*" These "facts," you say, "are all notorious among the members of the profession in this city." (It would be better if such was not the case, for the honor and dignity of the Court and the profession.) What "facts?" You say, that Major Tochman gave you mortal offence—what did he do? You say "on the trial of a cause in the Circuit Court * * he repeatedly *interrupted* the course of it,"—"interrupted" you whilst speaking—You do not say how or in what way he interrupted you—you say he did it in a *manner intended to be offensive*: Was this not imaginary on your part? It was not simply the being "interrupted by my friend that excited you to *violence*," for you tell me, that "*this I entirely disregarded*," but, whilst "utterly forgetful of him, he broke in upon me entirely unprovoked, with a gross charge, which was so sudden," &c. You then applied the outrageous epithets, "dirty scoundrel and coward," and threatening to "kick him out of Court!" I cannot imagine any thing a gentleman could do, that would prompt another to such violence. Your "statement" of what you remembered, for my information, does not say what was the "gross charge" alleged against you by Major Tochman. But in your letter now before me, you say, "I thought I had stated with abundant precision that they (the opprobrious epithets) were in reply to, and immediately provoked by a sudden and gross charge. That was a *charge of fraud*, openly and *without provocation* alleged against me in open Court by him." Upon this being shown to Major Tochman, he denies such was the case, and says that he did or said no more than any other lawyer would be bound to do, acting in good faith to his client's rights, and as become his dignity as a gentleman.

You say to me interrogatively, "Has it occurred to you, that the cause which led to the use of epithets, should first voluntarily be taken away before you can reasonably expect me to say a word about them?" This is easily answered—it depends entirely upon the *facts* of the case—the first to give offence, should be

the first to advance; it is becoming an honorable man to confess his errors and apologize. You admit that you were "*re-buked*" by the Court for your "*violence*." Or, you say, "am I to understand that you think he (Major Tochman) was right to charge fraud on me, and then that I should voluntarily withdraw the epithets provoked by that charge?" To this I have only to say, that the "charge of fraud" made against you, as you say, by Major Tochman—I was not informed of by you in your "*statement*"—the word fraud is not in your letter, and Major Tochman, in all he has written or said on the subject, to myself and others, has never charged you with fraud.

You say this was done in "open Court." If Major Tochman alleged against you "*fraud*," it must be explained by him, and if he cannot sustain the allegation, he should make the most ample apology, and it would follow, that if he did not so allege, you would do likewise. I shall not be the mediator or friend of one party, to the doing injustice to another: though I act as the friend of Major Tochman, I am as anxious that you should stand upon grounds, as I am that the outraged feelings of my friend should be appeased.

What is to be done to bring about a satisfactory understanding in this unpleasant affair? I would suggest that you would ask a friend, to meet me in Baltimore to arrange between ourselves, and whatever our decision should be, that yourself and Major Tochman shall abide by.

I cannot, after this letter, hold further correspondence with you as principal. If you will agree to my suggestion, I shall be happy to meet your friend here, which *he* will inform me of *by telegraph to-morrow*—address to me at Philadelphia.

I am, sir, your very obedient servant,

JAS. W. SCHAUMBURG.

JOS. H. BRADLEY, ESQ.

Washington, D. C.

No. 9.

PHILADELPHIA, November 30, 1847.

SIR :

You have not thought proper to communicate to me, through a friend, whether you would submit to reference the subject proposed, between Major Tochman and yourself, in my letter of the 25th inst. My friend wishes to terminate the matter speedily as possible, in a way satisfactory to his wounded

honor (and as recognised by gentlemen, when apologies and explanations are denied or insufficient).

Herewith, then, I have to present his note addressed to you, which you will receive and consider as being handed by me in person. I have to request your immediate acknowledgment, either by yourself or a friend. If your answer be by a friend, let him inform me by telegraph when and where to meet him to arrange matters.

Much time has been consumed, altogether by my own will—excepting your delays in answering my letters—in the endeavor to induce you to come to terms satisfactory to both Major Tochman and yourself, and I have the conscientious satisfaction of knowing that I have felt and acted from the best feelings, and most sincere desire to reconcile matters between you; failing in this, I have nothing further to say on the subject, other than future *preliminaries* may make necessary.

I remain, your ob't serv't,

JAS. W. SCHAUMBURG.

JOS. H. BRADLEY, Esq.

Washington City, D. C.

BALTIMORE, MD., *November, 1847.*

SIR :

Having failed to obtain from you a retraction and apology, for the gross and unwarrantable insults offered to me by you, I have to call upon you, to report your willingness to conform to the usages—recognised by gentlemen in the settlement of personal matters. My friend, Captain Schaumburg, will hand you this, and receive your answer.

I remain, your ob't serv't,

G. TOCHMAN.

JOS. H. BRADLEY, Esq.

Washington City.

No. 10.

WASHINGTON, *3d Dec. 1847.*

SIR,—I have this moment received your letter dated the 30th November, 1847, accompanying one enclosed in the same envelope, from your friend, demanding satisfaction of me. You speak of the delays which have occurred in the course of our correspondence, and attribute it in part to my delay in answering your letters. In regard to that, I take this opportunity to

say that each and every one of your letters was answered on the day it was received, and not a mail was allowed to pass without an answer.* In regard to the letter accompanying your own, I have only further to add, that the letters I have already addressed to you have afforded to him a full opportunity to relieve himself from the epithets and menaces provoked by his immediate attack. He has not availed himself of that opportunity, and I do not feel myself under the slightest obligation to respond to him in any other manner.

I am, sir, your most obedient servant,

JOS. H. BRADLEY.

JAMES W. SCHAUMBURG, Esq.

* MEMO.—Of course this does not refer to your letter of the 25th of Nov. which I did not understand as requiring any answer.

No. 11.

PHILADELPHIA, *December 5th*, 1847.

MY DEAR SIR :

I enclose Mr. Bradley's reply to my *last* communication, covering your demand for honorable satisfaction. The letter of Mr. B. requires but a single comment. He previously "*violently*,"—to use his own word, assailed you in the open court—denounced you as no gentleman would denounce another—he told you that you were a "*coward*," &c., and when he is called upon to retract and apologize, in as public a manner as he insulted you, he refuses to do so; nay, more, he does not accept the amicable proposition to allow a friend to meet me, for the purpose of arriving at a just and friendly understanding. This suggestion or proposition, was made in my letter of the 25th November, and I asked for an answer immediately, or the next day, by telegraph, this to be communicated to me by such friend as he would authorize—to say whether or not he would submit the difficulty, between you and himself, to the ascertainment or decision of such friend and myself. No answer was sent to me, and after five days waiting, I addressed him the letter of the 30th ult. presenting to him, your demand—to "report his willingness to conform to the usages recognized by gentlemen in the settlement of personal matters," &c. Mr. Bradley in reply, says, that he does "not feel himself under the slightest obligation to respond" to your invitation, and this too, after having "*violently*" denounced you as a "*coward*." Mr. Bradley,

with self-complacency, co-equalled only by his superlative obstinacy and presumption, refers me to his letters, to show, that he has offered you ample opportunity to obtain from him an acknowledgment of wrong on his part towards you—as if *his* forbearance and magnanimity were appealed to ! Had he really felt and appreciated your patience and propriety, and the *opportunity* so earnestly urged upon him by me, he could not have hesitated to accept my proposition, communicated to him at the close of my letter of the 25th ult. viz: to ask a friend to meet me, and to agree to abide by such decision as his friend and myself could have arrived at: I at the same time pledging myself, that you also should submit—and particularly remarking, *that if you had alleged against him an act of “fraud,” which you could not clearly manifest, you should first make the most ample apology.* How he has received and considered this fair proposition, his letter shows. It is not a difficult thing for an honorable and brave man to do justice—and the highest evidence of a man's courage, or that he is not a coward, is that moral courage which inspires one to be himself above doing intentional wrong, and to be always ready to answer for so doing, either by submission to the counsel of friends, or the just demands of the injured party. Mr. Bradley has convinced me, that he has from the first entertained a strong self-approval, and an idea that he is licensed to denounce with impunity an honorable and inoffensive gentleman as a “coward,” but has not the pride or ambition to prove *himself* any thing else than a *bully* and *slanderer*.

I have, then, to relieve you from all control to me, and permit me to say, that your honorable and gentle course of conduct greatly contrasts with that of the person with whom you have had the mortification and pain of personal difficulty.

I remain your obedient servant and friend,

JAS. W. SCHAUMBURG.

MAJOR G. TOCHMAN,
Baltimore, Md.

EXHIBITS.

B

WASHINGTON, D. C., *January 18, 1847.*

SIR :

After my interview with your Excellency in November, 1845, I made agreement with Messrs. Fendall and Bradley, whereby we associated and engaged to defend the suits of Estkos and Zolkowskis, claiming the fund which Gen. Kosciusko left in this country. A few days, then, I requested my associates to beg you, to transmit to the heirs two letters unsealed, informing them of this agreement, and requesting them to secure to us such allowance for our fees as we thought to be authorized to ask. These letters had been returned to me with the answer that your Excellency wished to supersede my power of attorney—and to this end had sent (or proposed to send) to St. Petersburg a draught of a power of attorney in the name of Messrs. Fendall and Bradley, requesting the government of his Majesty, to obtain thereto the signatures from the heirs. As this power of attorney has not come yet, and the expectation of my associates—and especially of Mr. Fendall to obtain it, creates a misunderstanding between the counsel of the heirs; you will therefore excuse the liberty of saying a few words in relation to this subject.

In 1845, when I came to Washington to take charge of the claim of the heirs, I found in the Orphan's court, a bond of administration in the penalty of \$56,000—which Mr. Bomford filed in 1832, to secure thereby the estate of Gen. Kosciusko. Upon further examination (a few days after the letter which I addressed to your Excellency on the 23d of November, 1845) I found out that the sureties to said bond of administration, died insolvent some years ago. The whole estate, then, for many years was without the least security; and Messrs. Fendall and Smith—the former counsel of the heirs, knew nothing thereof. Through my exertions we have now security for \$20,000—which Mr. Bomford was compelled to file on the 7th day of May, 1846, (the petition upon which this security was obtained was filed by Mr. Fendall, but he did it as my associate, and I urged it,)* and we have secured \$5,800 in the Bank of Washington, by injunction (should be, by notice to the Bank.) And the proceedings are depending in the court, to obtain further security for the residue of

* The bracketed sentences are explanatory additions.—G. T.

the estate—which with the interest for the last two years amounts to about or over \$25,000 more. But this is not all which I have done for the heirs. Your Excellency is aware that, there were two Wills of Gen. Kosciusko set up to bar the claim of the heirs. One of 1798, creating a trust and disposing of the whole fund in behalf of the negroes—and another of 1806, whereby Gen. Kosciusko bequeathed to Mr. Armstrong a legacy which at this time with the accumulated interest makes more than \$10,000. Messrs. Fendall and Smith, whom your Excellency retained as counsel for the heirs, did not make any step to set aside the Will of 1798;—an attempt was made by their predecessors, Messrs. Swann and Sampson, to avoid it on the ground that the trust created thereby is indefinite: but they were unsuccessful, as the Circuit Court for the District of Columbia dismissed their bill, in 1831.

The Supreme Court of the United States, in 1833, reversed the decree of the Circuit court—with the permission to amend the bill—which they did in 1835—and the cause was awaiting for a new trial: but its issue was very uncertain, as the courts of Chancery have the power to cure the defects of charitable bequests. This uncertainty is now removed:—a few days after my interview with your Excellency, I discovered that Gen. Kosciusko made and executed another Will in 1816 at Soleure, in Switzerland—whereby he revoked all the previous Wills, testaments and codicils. That Will had been deposited and recorded at Fontainebleau in France—and its existence was carefully kept from the knowledge of the heirs for the 29 years past. I made immediately an application to the French authorities for an authenticated copy thereof, and on Friday last we have proved and recorded it in the Orphan's court of this District. This proceeding settles the matter so far, that nobody else but the heirs have to take the whole fund which Gen. Kosciusko left here. It sets aside also the Will of 1806—so that the \$10,000 adjudicated to Mr. Armstrong by the decree—the execution of which I stopped in November, 1845, are also saved to the heirs. (Bradley moved the court to stop the execution, but at my request and as my associate.) And your Excellency will undoubtedly recollect, that Messrs. Fendall and Smith, gave you an opinion that this legacy must be paid to Armstrong.

Under my control, then, and through my exertions only, the right of the heirs is already established to the whole fund. And had Messrs. Swann and Sampson, and after their death, Messrs. Fendall and Smith, done their duty—had they not permitted Mr. Bomford to collect the moneys of the estate and to speculate therewith—we could recover now the whole fund without any further litigation. But as they permitted Mr. Bomford to collect all the moneys, except only 5800 being in the Bank of Washington (this is the Stock)—we must sue Mr. Bomford to recover from him by way of execution what we can—and then sue his sureties to the bond—which we obtained in May last—to make up the balance which we shall not be able to raise out of his own property.

I have given to your Excellency this brief sketch of the present condition of the affairs of the heirs, to show—that much as I have already done to secure their claim, there remains yet much to be done; and they may be yet defeated—if their business is not properly attended to. And to show also, that to supersede my power of attorney, when the heirs owe to my exertions and services, whatever they shall recover, would be the most flagrant and the most unequitable injustice. I am aware that political principles, seldom admit justice and equality due to individuals—when the interest of the state or empire is consulted. Wherefore, I do not accuse your Excellency—nor the government of his Majesty—of any iniquity in the design to reach and punish me in the character of American citizen—for my political doings in Poland. But I beg leave, with due respect, to submit to you and to the government of his Majesty, this peculiar position in which we find our respective rights. It is to be expected, and it cannot surprise—neither your Excellency nor the government of his Majesty, that if the power of attorney, intended to supersede mine—comes and be made use of—I shall defend my right by all possible means. Let us, then, suppose that the present administration shall refuse to interfere in my behalf in this controversy:—because the heirs of Kosciusko are the subjects of his Majesty and within his exclusive power. My course would be—to sue Messrs. Fendall and Bradley (to take legal measures against them)—to set aside their power of attorney as obtained by undue means and contrary to law—to impair the agreement which they made with me and which I hold in my hands. They have been participants in the measures which your Excellency adopted against me—and the consequence thereof is, that they cannot make good their power of attorney, to prejudice thereby my rights. And the fact that your Excellency requested them to draw that power of attorney, will not make better their cause. But for the sake of argument I admit that I mistake the law, as to this point: your Excellency and the government of his Majesty would not attain the purpose aimed at—even if such were the case—for the law of this country secures to me the whole allowance and the reimbursement of all the costs which I laid out and advanced for the heirs. It secures them to me under all circumstances—to wit: whether I gain or lose the suit which I should bring against Messrs. Fendall and Bradley; and also whether the heirs should revoke my power of attorney, obeying the order of his Majesty's government—or whether they should do it of their own free will; as in my proceedings no departure from my duties of their attorney, can be attributed to me. This my right—is so positive and so secured by the Constitution of these United States, that no interference of any government on the face of the earth can deprive me thereof. And as I have a lien for my dues on the fund of the heirs—being in this country; they cannot be reached by the Ukas of his Majesty whereby it has been ordered to confiscate my property in Poland.

I have taken the liberty of setting forth before your Excellency this explanation—frankly and openly—with a sincere desire to remove, if possible, the difficulties thrown in my way, without resorting to the measures which could give uneasiness to many persons—and no advantage to the government of his Majesty. A mutual understanding and support, in acting on behalf of the heirs, is very desirable. It could shorten the legal proceedings and give your Excellency the satisfaction of transmitting to the heirs their fund—perhaps in the course of this year. If then my overture is acceptable, I beg your Excellency to inform me thereof, that I may communicate on the subject with you.

With the assurance of the high respect,

I have the honor to be
Your Excellency's most obedient,

G. TOCHMAN.

TO HIS EXCELLENCY DE BODISCO,
Envoy Extraordinary and Minister
Plenipotentiary of Russia.

WASHINGTON CITY, *Jan.* 18, 1847.

I hereby certify that the within and foregoing is a true copy of a letter this day addressed to Mr. Bodisco, Minister from Russia—by Maj. G. Tochman, and by me this day deposited in the Post office in this city. Witness my hand and Notarial Seal—the day and year above stated.

[LS.]

JOHN F. CALLAN, *Notary Public.*

C

WASHINGTON, D. C., *January* 22, 1847.

SIR :

In addition to what I stated in my letter of the 18th inst. I beg leave to inform your Excellency, that last September we filed in the Orphan's Court a petition praying that Mr. Bomford be required to give further security. This petition was dismissed, and I appealed from the decision. The appeal, however, could not be argued during the last term of the Circuit Court—it was necessary to wait until the next March—so I filed in the Circuit Court a "*Bill Quia Timet*," stating the danger in which I found the estate of Kosciusko, and praying for an order that Mr. Bomford be compelled to bring the moneys into court. The court would not refuse such order—and the consequence thereof would be that should not Mr. Bomford comply therewith, his property would be sequestered and his body taken into custody. Messrs. Fendall and Bradley were opposed to this measure. One of them even left the court when I made the motion—but I carried my

plan notwithstanding. This compelled Mr. Bomford to give us further security, which he filed in the amount of 40,000 dollars more, after I wrote my last to your Excellency. I have given then my consent to withdraw the "Bill Quia Timet"—as this additional security has been filed under this condition—which I accepted, preferring the security for 40,000 dollars to the body of Mr. Bomford * * * *

* * * *

Our sureties are, Messrs. James Carrico and Samuel Slott for 20,000 dollars mentioned in my letter of the 18th inst. and Messrs. Jacob Gideon and Ulysses Ward for the 40,000 dollars now secured. I believe that the last two are known to your Excellency as wealthy men. The son of Mr. Bomford and Mr. B. Smith are also our sureties—but rather pro forma.

Allow me, sir, to repeat the
assurance of my respect,
Your Excellency's most ob't,

G. TOCHMAN.

TO HIS EXCELLENCY DE BODISCO,
Envoy Extraordinary and Minister
Plenipotentiary of Russia.

D

WASHINGTON, 21st January, 1847.

MAJ. G. TOCHMAN,

SIR—At the time of our interview with you this morning, we were not at liberty to state, that we had seen your letter to Mr. Bodisco, dated 18 January inst. Since then that letter has been placed in our hands, with full power to act in regard to it as we may deem best.

You will not be surprised, then, *at this communication, in which we desire that hereafter no further intercourse shall exist between you and ourselves, or either of us*, and that you will without delay transmit to Mr. Fendall such of the papers relating to the Kosciusko cases, which you received from him, as you have not yet returned.

You have, we presume, retained a copy of the letter above referred to. If not, we will, if you desire it, forward one to you.

We are, &c.

P. R. FENDALL.
JOS. H. BRADLEY.

E

WASHINGTON, *January 21, 1847.*

GENTLEMEN :

In compliance with your request, I return the papers you asked for, and expect that you will also return me immediately the translations of the mortgage, and of the decree, made by me. I also send you a copy of the power of attorney which Estkos executed in the name of Mr. Chutkowski, and a copy of my power of attorney from him. With this, allow me to state that the treatment, which I received from you during all the time since you accepted the proposition of Mr. Bodisco, (to authorize him to send the power of attorney, drawn in your name, to St. Petersburg, to force the heirs to sign it), could not be beared any longer. *I then wrote to Bodisco, not to break thereby my agreement with you, but to bring the matter to a position that we could act under it with more unity and harmony : and if it cannot be attained, to come to a point that I may defend my rights and honor, if necessary, in the courts.* Please, then, gentlemen, let me know, *whether I have to understand your letter as a notice, as required by our agreement, that you withdraw from further duties of the co-counsel of the heirs.* If you do not answer, I will consider it so, and file my power of attorney in the court. This, however, would be a painful duty to do, which I wish to avoid and keep our agreement in full force—if you henceforth consider me as an associate counsel, and not in the manner you did since you confederated against me with Mr. Bodisco.

I am, &c.

G. TOCHMAN.

JOS. H. BRADLEY, and

P. R. FENDALL, ESQRS.

F

WASHINGTON, *21st January, 1847.*

MAJ. G. TOCHMAN,

SIR—We have received your letter of this date, with the papers which it refers to.

We send herewith the translations you desire, and also a draft of a petition, or supplemental petition, prepared by you.

Having yourself broken the agreement of the 29th Nov., 1845, we do not recognize you as any longer entitled to act in the cases of the heirs of Kosciusko, which we are exclusively authorized to conduct. There is no other part of your letter requiring an answer from us.

We are, &c.

JOS. H. BRADLEY.

P. R. FENDALL.

WASHINGTON, February 15, 1847.

To the Honorable N. P. Cousin, Judge of the Orphan's court.

SIR:

At the request of Messrs. Fendall and Bradley, counsellors employed by the Imperial Russian Legation, in behalf of the next of kin of the late Gen. Kosciusko, who inform me that their authority has been questioned by an individual claiming to act therein, under some pretended authority from the Estko family, I consider it due to the two counsellors to state to you the relation held by the Imperial Legation towards that family.

As far back as the year 1818 the Estko family applied to the Imperial government for its aid in procuring information in regard to the property left by Gen. Kosciusko in this country, and in vindicating their claim to his succession as his next of kin and heirs. A correspondence was at that time opened with Mr. Poletica, by Prince Zajonczek, Vice-Roy of Poland, and by Mr. Poletica with Mr. Jefferson, which resulted in the discovery of the paper of 1798 deposited by the General in the hands of Mr. Jefferson, and of the amount of the accumulated fund referred to in that paper. This fact having been communicated by the Imperial government to the Estko family, full powers were transmitted to the Baron de Thuye, the successor of Mr. Poletica, and the papers then thought necessary to establish their claims, were also forwarded to him. Baron de Thuye employed Mr. Swann, late counsellor of law, to prosecute their claims, and he retained the late counsellor Sampson to assist him.

The Imperial Legation is not fully advised of the various causes, which delayed the final adjudication of the claims during the life of Mr. Swann, who survived Mr. Sampson, but during his life he continued to derive all his authority from and through the Imperial Legation, and the Estko family, by correspondence recognized the Legation as fully empowered to act in the matter. Mr. Swann having died without bringing the affair to a final issue, I employed Mr. Fendall and Mr. Bayard Smith conjointly with him to supply the place of Messrs. Swann and Sampson, and vested in them full authority to act in every respect as attorneys and counsellors of the Estko family. For a long time, as I was informed, the affair was delayed because certain rules requiring security for costs in the court could not be complied with; some necessary papers which had been transmitted through the Imperial Legation, to be executed under the sanction of the Imperial government were, from some cause delayed, and certain documentary evidences necessary to sustain the claims of the heirs had not been received. In this state of affairs, I received from Russia some authenticated documents concerning the Genealogy of the Kosciusko family. These documents appeared to me entirely

sufficient to establish clearly the undisputed right of the claimants to the inheritance, and I placed them without delay in the hands of Messrs. Fendall and Bayard Smith. Soon after this communication Mr. Bayard Smith expressed the desire to retire from the case, and with my full consent Mr. Fendall associated with him Mr. Bradley for the prosecution of this business. An arrangement was made by them to comply with the rule of court and to give the necessary securities. *This step gave life to the affair which was then actively resumed and vigorously prosecuted with every prospect of final success.**

From the year 1818, and during an uninterrupted period of 28 years, the various members of the Estko family have considered it as a great favor and kindness on the part of the Russian government, *to protect their interests in the United States*, and have acted accordingly by investing the Imperial Legation with full authority to act therein, to receive the money, and transmit it to the competent tribunal for the lawful distribution of the inheritance according to the existing law.

After this statement of facts, it is rather difficult to understand, how the authority, once vested in the Legation, can, now, in any manner, *be interfered by them, or any person claiming to represent them, without the consent of the Imperial Legation. Can it be supposed for one moment, that they should forget themselves so far as to trifle with their own government? The whole tenor of their correspondence shows, on the contrary, that they confidently rely on the Legation as best qualified, from its position and impartiality, to protect their rights.* In their anxiety to see a protracted suit terminated, the Estko family may have listened to overtures of assistance from officious individuals, but the Legation has not been advised of it by the Imperial Government, and there is nothing from which it could be inferred of, a formal attempt, on the part of the Estkos family, to act against the authority given to the Imperial Legation, recognized and fully admitted during 28 years.†

Desirous of furnishing to you, sir, all the information necessary to enable you to form a clear and impartial opinion in this case, *I consider it as an act of kindness towards the Estkos family, to protest against any pretended authority, in any other person, to interfere in this affair without my formal consent. I shall, by the earliest means of communication, report the attempt made to interfere with my authorization, requesting the Imperial Government to inform me if any change has taken place in the position of this affair. In the mean time, I would beg to request that no action, not necessary to the preservation of the property of the estate, shall be had, nor any thing done, which is not sanctioned by the counsellors employed by the Imperial Legation.*

Receive, sir, the assurance of

My high esteem and consideration, A. DE BODISCO.

* See exhibit H—its contents show too plainly the mistatement of this part of Mr. de Bodisco's diplomatic statement.—G. T.

† See exhibits I, K, L, pages 33, 34, 35, to learn how this is mistated. —G. T.

DISTRICT OF COLUMBIA, }
Washington County, to wit: }

I certify, that the foregoing is a true copy from the original, filed in the office of the Register of Wills, for Washington county, aforesaid.

SEAL. { Witness my hand and seal of office, this 12th day of
 April, in the year 1847.
 ED. N. ROACH, *Register of Wills.*

H

MEMO: 29 Nov. 1845.

The undersigned agree to unite in the prosecution of the claims of the families of Estko and Zulkowski to the funds left in this country, in the hands of Mr. Jefferson, by Gen. Thadeus Kosciusko.

We agree in the first place to enter jointly as sureties for the fees and costs in the several cases depending, or which may be brought, in the Circuit court respecting the said fund, and to be equally responsible in the event of any one or more of the said cases being carried to the Supreme court.

We further agree that out of the compensation which we may receive, we will, after deducting the said fees and costs, make some reasonable allowance for the services heretofore rendered by Mr. Thos. Swann, and by Mr. J. B. H. Smith, respectively, and the residue to divide equally among ourselves.

We further agree that this arrangement is temporary only, and that at present there is only an authority from the Estko branch to pay ten per cent. of the amount recovered; *that Maj. G. Tochman undertakes to open a correspondence with the Zulkowski branch, and endeavor to obtain from that branch an authority to prosecute the claim and to make a proper allowance for our services, and also with the Estko branch to obtain an increased allowance, and if he shall not succeed in obtaining authority from the Zulkowski branch, and an increased allowance from the Estko branch, that either of us shall be at liberty to withdraw from this agreement on reasonable notice to the others.*

It is understood between us that the increased allowance above mentioned is not to be less than 10 per cent. so as to make the whole 20 per cent.

JOS. H. BRADLEY,
 P. R. FENDALL,
 GASPARD TOCHMAN.

I

Translation from the Polish.

SIECHNOWICZE, December 24, 1845.

DEAR COUSIN:

We willingly consent to Mr. Tochman being our attorney, whom you have recommended to us as a gentleman of honor and integrity. We rely upon you, dear cousin, being fully convinced that you are incapable of doing any thing which might be prejudicial to our interest. As to the lawyers, whom His Excellency, Mr. Bodisco, recommends to us, we have no confidence in them, as they make propositions which we cannot accept, they ask from us \$500 in advance; it inclines us to the belief that they are interested persons. I send you, Dear Cousin, a copy of the letter which His Excellency, Mr. Bodisco, wrote to me, and also a copy of the official despatch of His Excellency, Mr. Bodisco, as Ambassador at Washington City, in the United States of America, to our Foreign Minister, Mr. Nesselrode, in order that the latter might communicate it to us; perhaps it will be of some use to you, it may be that you will discover the design of those gentlemen there.* I beg you, my dear cousin, Ignatius, to inform us what became of the land in Ohio, of which those gentlemen write to us that it is lost to us, as you will see it from the papers which I herein enclose to you. It seems to us that it cannot be so as these gentlemen tell us. We cannot understand how the land could have been sold before its owner was found out. As to the debts of Klimkiewicz, if we, lawful heirs of Kosciusko gain the suit, it will show that Klimkiewicz was an imposter, and whatever debts he might have contracted, they cannot bind our fund.

The Ambassador, Mr. Bodisco, says in his letter that we are bound to remunerate the former lawyers, I do not know why? They have done nothing, and it is only to your interference that we are indebted for the delay which was necessary to enable us, living as we are at so great a distance, to collect the evidence of our inheritance.

I send you also a copy of the letter which I have written just now to the Ambassador, begging him to transmit the papers to the Counsel whom you have recommended to us. I write also to Mr. Tochman, begging him to take under his care our business and securing to him the remuneration for his legal services which you promised to him. I think that our word should satisfy him as to the assurance of his pay, and we hope he will take up our business, and prosecute it with his usual activity.

We beg you, however, dear cousin, to tell Mr. Tochman, that he will be entitled to his remuneration when he shall have gained our cause.

* The official despatch of Mr. de Bodisco to Mr. Nesselrode, Foreign Minister of Russia, is not annexed here, it having no relation to the affair which provoked the publication of this pamphlet.—G. T.

Should it be necessary to give him a formal power of attorney, please inform us of it; and as you have also a power of attorney from us, on the strength of it you will please to authorize him in the meanwhile to proceed immediately.

You propose to us that we should name another counsel, in the person of Mr. Bradley. If it is absolutely necessary, we agree to it; but it would be better if it could be done without him, for it would be necessary to pay him also—and if we could save some money by dispensing with his services we should prefer to offer you a still larger compensation.

As to the business of Miss Elizabeth Mange, we have made the necessary inquiries, but until now nothing has been accomplished. Farewell, my dear Ignatius.

Your well wishing cousin, CATHARINE ESTKO.

To MR. IGNATIUS CHUTKOWSKI.

I hereby certify that the foregoing is a true translation from the original Polish.

STEPHEN J. DALLAS.

K

Copy of the letter of Mrs. Catharine Estko to Mr. de Bodisco.

Je ne saurais assez exprimer toute ma gratitude pour la bienveillance avec la quelle Votre Excellence daigne s'intéresser à notre affaire—cequi m' encourage de recourir encore à Votre Grâce—Veuillez agréer l'assurance que ses avis me sont de la plus haute importance—mais Votre Excellence ignore peu—être que Mr. Smith est parent de Meur. Bomford,—qu'il me soit aussi permi de rappeler qu' il faut agir contre l' administrateur qui gire les funds,—de plus pour le moment nous sommes hors d' état d' envoyer la somme de 500 dollars qu' on nous demande. Notre cousin, Mr. Chutkowski, nous a donné des preuves de son dévouement et de sa loyauté—il nous recommande pour Avocat Meur Tochman de New York—et comme il parait qu' en date du 1^{er} Mai 1845, de la lettre que j' ai eu l' honneur de recevoir de Votre Excellence, les Avocats ne sont pas encore autorisés legalement, conformément à la permission qui nous a été donnée précédemment de nommer les Avocats pour defendre notre cause dans les Tribunaux en Amerique—nous desirous donner la preferance à ce dernier—Votre Excellence voudre bien m' excuser si j' ose lui faire mon humble demande de permettre à ce changement d' avocats, et de vouloir bien lui faire transmettre par Meur Chutkowski demeurant à New York—les papiers qui se trouvent entre les mains des anciens Avocats. Que Votre Excellence daigne considerer que Mr. Fendall et Smiths n' out point fait avancés notre affaire, par consequant je suppose qu'ils n'ont pas le droit d'en reclamer le payment, &c. &c.

[The foregoing is taken from the copy which Mrs. Catharine Estko sent to Mr. Chutkowski in the letter marked I.] G. T.

L

Translation from the Polish filed in the Orphan's Court of the District of Columbia.

SIR :

SIECHNOWICZE, December 24.

Our cousin, Ignatius Chutkowski, has recommended you as a gentleman of honor and integrity, in whose hands, we the heirs of Kosciusko can safely place our business. We do place full confidence in you, and we beg you sir, to take under your management our claim, which is clear and just. As to the remuneration for your legal services we approve with much pleasure the agreement which our cousin made with you, and we give you the word of honor that none of us shall question it. If you wish to have formal security, please inform us and we shall take care to send it to you as soon as possible, together with the power of attorney—and until we do so, please to consider this letter as your authority. Please sir, to inform us how our business stands, and give us your opinion thereof. We place in you full confidence and rely upon your integrity.

We recommend ourselves to your care,

Your most obedient servant,

à MONSIEUR G. TOCHMAN,

CATHARINE ESTKO.

à New York,

True Copy,

Test,

ED. A. ROACH, Regl.

July 9, 1847.

DEPOSITIONS.

UNITED STATES OF AMERICA,
Southern District of New York, } ss.
City, County and State of New York. }

BE it remembered, that on this 13th day of September, in the year of our Lord 1847, I, George W. Morton, a Commissioner, duly appointed by the Circuit court of the U. S. for the Southern District of New York, in the Second Circuit, under and by virtue of the acts of Congress, entitled, "An act for the more convenient taking of affidavits, and bail in civil causes, depending in the courts of the U. S." passed February 20th, 1812, and the Act of Congress, entitled, An act, in addition to an act entitled, "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the U. S." passed March 1st, 1817, and the act entitled "An act to establish the judicial courts of the United States, passed September 24th, 1789, did call and caused to be and personally appear before me, at my office at the United States court—in the City of New York, in the said Southern District of New York, in the state aforesaid,

Ignatius T. Chutkowski, to testify, and the truth to say, on the part and behalf of the plaintiff, in a certain suit or matter of controversy, now depending and undetermined in the Circuit court of the U. S. for the District of Columbia, for Washington county, at Washington city, in the District aforesaid—wherein Gaspard Tochman is plaintiff and Thomas Ritchie and John P. Heiss, are defendants. And the said Ignatius T. Chutkowski, being about the age of thirty-four years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said Ignatius T. Chutkowski, and he did thereupon depose, testify and say as follows, viz: That he was born in the government of Podolia and state of Poland, and resides in the city of New York, more than 100 miles from Washington city, District of Columbia, the place of trial of the above cause.

That he has known the plaintiff personally since 1842. I knew him before that time by reputation as Vice President of the Polish Council, at Avignon, in France, and as a public lecturer on Poland and Russia, in this country, which induced me to call upon him when he visited Washington city, in the District of Columbia, in 1842, where I was then residing, and it was on that occasion that I made his personal acquaintance by introducing myself to him as his fellow-countryman.

State what you know in relation to the identity of his person, or that he is actually the Polish Major G. Tochman, as he represents himself to be.

He says—The circumstances I am about to relate confirm the identity of the plaintiff in this cause.—In 1846, when Major Tochman made exertions to form in this state the Polish Slavonian Literary Association, for which he obtained a charter from the Legislature of this state, some of the Poles residing in this city protested against it, and on this occasion they seemed to have questioned the identity of his person, they denied him the right of forming that society, and denounced that he was collecting donations without authority, under pretext of forming that society, and that he assumed in this country the rank of Major. These Poles were then and still are members of a section of the Polish society of the *third of May*, whereof I was then and am still the secretary. Having no reason to believe that the protest was reasonable, or that the imputations made against Major Tochman had any foundation, or that he ever collected any donations, or subscriptions, I refused to take any part in these proceedings. I even endeavored to deter therefrom those who protested against Major Tochman, but they seemed to have labored under the impression that Major Tochman had no right to form that society without previously consulting with them as the members of the Polish society of the *third of May*, to which he refused to belong. They then published several articles against Major Tochman, and reported their proceedings to the general Polish society of the *third of May*, organized and existing in France.

This step of theirs was however greatly disapproved of by the general society of the *third of May*: by order of that society and of Prince Adam Czartoryski, who was the president of the Polish government during the revolutionary war of 1830, the president of that society, Colonel Breanski, wrote to the Poles who protested against Major Tochman, reprimanding their conduct in the premises, and informing them that Major Tochman was undoubtedly what he represented himself to be:—the nephew of General-in-Chief of the late Polish army, John Skrzynecki;—that he was actually a Major in the army; and that he had always distinguished himself in serving the cause of Poland. This letter was addressed to Mr. Kowalewski, who was then presiding officer of the section of the Polish society of the *third of May*, in New York, and who belongs to the number of those who protested against Major Tochman; and a similar letter was also addressed by Colonel Breanski, to the Reverend Jerzykiewicz, Polish priest in this city, and both these gentlemen were requested, in these letters, in the name of the society and of Prince Czartoryski, to call a meeting of those persons who protested against Major Tochman, and to induce them to revoke that protest. I read both of these letters; they were communicated to me as the secretary of the society, but neither of those gentlemen to whom the letters were addressed, have up to this time taken any steps to comply with the request contained in the letters; as I believe probably because of their unwillingness to revive the subject of their mistake in protesting against Major Tochman. Those letters are in the hands of those who protested against Major Tochman.

I ought to add here, that previous to the beforementioned protest against Major Tochman, I saw his name published in a Book or Almanack, entitled, "*Almanach Historique ou Souvenir de L' Emigration Polonoise*," published in France, in 1837, wherein it is stated that he was Major in the Regiment of National Guards, that he was wounded, and that he was honored with the Gold Cross "*Virtuti Militari*," a decoration which proves that he must have distinguished himself in the field of battle during the struggle against Russia for Polish independence and liberty. I saw also his name in the list of Polish exiles, whose property had been confiscated, by the Russian Government. This list is published in a book entitled, "*La Pologne dans ses Anciennes Limites et L' Empire des Russies en 1836*." I called the attention to these facts of those who protested against Major Tochman, but they seemed to suspect the identity of the person of Major Tochman until they were disabused therefrom by the aforesaid letters of Colonel Breanski.

IGNATIUS T. CHUTKOWSKI.

Read to and subscribed by the witness Ignatius T. Chutkowski, on his examination before me, *Sept. 13, 1847.*

GEO. W. MORTON, *U. S. Com.*

UNITED STATES OF AMERICA,
Southern District of New York, } ss.
City, County and State of New York. }

Be it remembered, that on this 14th day of September, in the year of our Lord 1847, I, George W. Morton, a Commissioner, duly appointed by the Circuit court of the United States for the Southern District of New York, in the second Circuit, under and by virtue of the Acts of Congress, entitled "An act for the more convenient taking of affidavits and bail in the civil causes, depending in the courts of the U. S." passed February 20th, 1812, and the act of Congress, entitled "An act, in addition to an act entitled 'An act for the more convenient taking of affidavits and bail in civil causes, depending in the courts of the U. S.'" passed March 1st, 1847, and the act, entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, did call and cause to be and personally appear before me, at my office at the United States courts, in the city of New York, in the said Southern District of New York, in the state aforesaid, John L. O'Sullivan, to testify and the truth to say, on the part and behalf of the plaintiff in a certain suit or matter of controversy, now pending and undetermined in the Circuit court of the United States, for the District of Columbia, for Washington county, at Washington city and the District aforesaid: wherein Gaspard Tochman is plaintiff, and Thomas Ritchie and John P. Heiss are defendants.

And the said John L. O'Sullivan, being about the age of thirty-three years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said John L. O'Sullivan—and he did thereupon depose, testify, and say as follows, viz: To the first interrogatory he says: That his residence is in the city of New York. To the second interrogatory: that he knows the plaintiff in this cause, having made his acquaintance in the year 1842, at Albany, on the occasion of that gentleman's address before the Legislature of New York on the subject of the wrongs of Poland, the deponent being then a member of the legislature. That in the fall of 1845 he had the pleasure of receiving from Major Tochman (volunteered by that gentleman) two letters of introduction, the one to General Skrzynecki, the celebrated heroic Commander in Chief of the Polish Army in the late attempted revolution of Poland, and the other to Prince Czartoryski, the President of the late Polish Republic; the former residing in Bruxells, and the latter in Paris. That the former letter addressed Gen. Skrzynecki as "Uncle," and was signed with the designation of "Nephew," in connection with the signature of Major Tochman, which was well known to deponent. That the deponent was received with great kindness and welcome on the introduction of the said letters; the most friendly inquiries being made respecting Major Tochman, and the relations between the writer of them and the

parties to whom they were addressed, which were implied in the letters themselves, being fully recognized by the latter in the most cordial manner; and that Prince Czartoryski, through the hands of his nephew, Count Ladislas Zamoyski, (who also had united in expressions of friendly regard for Major Tochman, and recognition of his zealous and valuable services to the Polish cause), delivered to the deponent a parcel directed to Major Tochman, which he duly remitted to that gentleman.

J. L. O'SULLIVAN.

Reduced to writing by the witness, John L. O'Sullivan, on his examination before me, and signed by him in my presence, this 14th day of September, 1847.

GEO. W. MORTON, U. S. Com.

UNITED STATES OF AMERICA, }
Southern District of New York. } ss.

I, a Commissioner, duly appointed by the Circuit court of the U. S., for the Southern District of New York, in the second circuit, under and by virtue of the Acts of Congress, entitled "An Act for the more convenient taking of Affidavits and Bail in civil causes, depending in the courts of the U. S.," passed February 20th, 1812, and the Act of Congress, entitled "An Act, in addition to an Act, entitled 'An Act for the more convenient taking of Affidavits and Bail in civil causes, depending in the courts of the U. S.,'" passed March 1st, 1817, and the Act, entitled "An Act to establish the judicial courts of the U. S.," passed September 24th, 1789. Do hereby certify, that the reason for taking the foregoing depositions is, and the fact is, the witnesses are material and necessary in the cause in the caption of the said deposition named, and that they both live and reside in the city of New York, more than one hundred miles from the city of Washington, the place of trial of the above cause. I further certify, that no notification of the time and place of taking the said depositions, signed by me, was made out and served on the adverse parties, or their attorney or agent, to be present at the taking of the depositions, and to put interrogatories, if he or they might think fit, because neither of the defendants, or their attorney or agent, are within one hundred miles of the city of New York, the place of caption or taking of said depositions. I further certify, that on the 13th and 14th days of September, in the year of our Lord, 1847, I was attended by plaintiff, Gaspard Tochman, and by the witnesses, who were of sound mind and lawful age, and the witnesses were by me first carefully examined and cautioned, and sworn to testify truth, the whole truth, and nothing but truth, and the deposition was by me and the witness reduced to writing in the presence of the witnesses and from their statements, and, after carefully reading the same to the witnesses, they subscribed the same in my presence. I have

retained the said deposition in my possession, for the purpose of sealing up, directing, and depositing in the post office of the city of New York, the same with my own hands, for the court for which the same were taken.

And, I do further certify, that I am not of counsel, nor attorney for either of the parties in the said deposition and caption named, nor in any way interested in the event of the cause named in the said caption.

In testimony whereof, I have thereunto set my hand and seal, this 14th day of September, in the year of our Lord, 1847, and of Independence of the United States the seventy-second.

GEO. W. MORTON, LS.

United States Commissioner, duly appointed by the Circuit court of the U. S., for the Southern District of New York, in the second circuit.

UNITED STATES OF AMERICA, } ss.
Southern District of New York.

I, Alexander Gardiner, Clerk of the Circuit court of the United States of America, for the Southern District of New York, second circuit, do hereby certify, that I am well acquainted with the hand writing of George W. Morton, whose name is subscribed to the annexed certificate and depositions, and that the signature to the same is in his proper hand writing. And, I do further certify, that he was, at the time of his signing the same, a Commissioner, duly appointed by the Circuit court of the United States of America, for the Southern District of New York, under and by virtue of the Acts of Congress set forth in said certificate.

L. S. { In testimony whereof, I have thereunto subscribed my name, and affixed the seal of the said Circuit court, this 14th day of September, in the year of our Lord, 1847, and of Independence of the U. S. the seventy-second.

ALEXANDER GARDINER.

Copy Test,

WM. BRENT, Clerk.

EXPLANATION.—The foregoing depositions have been taken to be used as evidence in a libel suit, which I brought against Messrs. Ritchie and Heiss, because of their having republished, in the advertising columns of their paper, one of the libellous pieces referred to in the deposition of Mr. Ignatius T. Chutkowski. But Messrs. Ritchie and Heiss are not concerned in the affair which provoked the publication of this pamphlet.

G. TOCHMAN,







HECKMAN
BINDERY INC.



APR 89



N. MANCHESTER,
INDIANA

